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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,857	01/11/2002	Marianne Breslin	BRESLIN-1	5296

7590 11/19/2003

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/042,857

Applicant(s)

BRESLIN ET AL.

Examiner

Chapman E Jeanette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-5 is/are allowed.
- 6) ☒ Claim(s) 6 and 13 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The indicated allowability of all claims has been withdrawn due to further consideration of the prior art of Haight. The examiner apologizes for the inconvenience; this action has not been made final.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 6 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Haight (3644942). Haight discloses an method of preparing an area of ground surface on which will be constructed an above ground pool 10 with a pool liner 14; the method comprising:

- providing an prefabricated padding pad 22 in a plurality of segments 16 and 28;
- assembling the segments on the ground surface area as shown in figure 7
- constructing the above ground pool 10 over the padding; wherein said padding 16/28 is interposed between the ground 13 and the pool liner 14 preventing the liner from contacting the ground 13 in the area of the padding
- erecting a continuous wall 11 around the padded area;
- lining the continuous wall 11 and the padded area 16/28 with the pool liner 14 as shown in figure 7 that this method has been employed to arrive at the disclosed structure;

The pad is interposed between the liner and the continuous wall 11. The method has been considered to be formed by Haight because the recited and disclosed structure exist; the recited

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method steps of providing, placing, erecting method steps have been employed to arrive at the recited and disclosed structure.

ALLOWABLE SUBJECT MATTER

Claims 7-9 and 11 are objected to as being dependent on a rejected claim. Amending the claims to include the base claim and any intervening claims would place the claims in allowable form.

Claims 1 and 3-5 are allowable over the prior art of record.

Arguments filed 8/28/2003 regarding the above claims are moot given the new ground of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Chapman whose telephone number is (703) 308-1310. The examiner can normally be reached on Mon. Through Friday from 8:30 to 5:00, except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached on (703) 308-08390. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3579/80.


Jeanette Chapman
Primary Examiner